

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission on its Own	)	
Motion	)	
	)	
Rulemaking concerning the establishment of	)	Docket No. 02-0581
mandatory provisions for money pool	)	
agreements involving public utilities and	)	
incumbent local exchange carriers	)	

COMMENTS OF UTILITIES, INC.

Utilities, Inc. (“UI”) is the parent company, and sole security holder, for 24 water and/or wastewater utility companies in Illinois (“Operating Companies”). While the Operating Companies serve a total of approximately 17,000 customers, many of the Operating Companies are very small. The largest company serves only 2,200 customers and about six of our Operating Companies serve less than 200 customers. UI can provide efficient and economical service to the customers of these small utilities only through the economies of scale brought about by our centralized operations.

UI recently became aware of the Commission’s rule making proposal in Docket 02-0581. Unfortunately, UI has been unable to participate in this proceeding to date; however UI Has some serious concerns that we would like to bring to the attention of Staff regarding how the proposed rule regarding money pools (83 Ill. Adm Code § 340) (“Proposed Rule”), if adopted, will impact the Operating Companies.

UI has a highly centralized cash management function that is essential in order for it to obtain efficiencies and economies of scale to provide service in Illinois at reasonable rates.

Customer bill payments are received in numerous locations across the country, including Northbrook, Illinois (for UI's Indiana, Ohio and Illinois companies). These payments are applied to the customers' accounts and the revenues are booked directly to the respective company. For the Illinois cost center, the batches are deposited directly into a Bank One Depository Account on a daily basis. The Depository Account is in the name of Water Service Corp (WSC), UI's service company. The agreement by which WSC provides services to the Operating Companies has been approved by the Commission. None of the Illinois Operating Companies maintain any bank accounts and none of them directly pay any vendors, suppliers or employees. None of the Illinois Operating Companies have any borrowings from third parties. All system financing is done by UI.

UI's principle and interest payments and WSC's expenses and capital expenditures (which are all made on behalf of the various operating companies) are paid directly from the main Bank One Depository Account. By accounting entries determined by the allocation factors approved by the Commission, such expenses are allocated to the individual Operating Companies. The Commission should be very familiar with UI's system as a result of several rate cases we have conducted in the past several years.

Under the Proposed Rules, the cash management program of UI described above could be considered to give rise to "loans" from the Operating Companies to WSC and/or loans from WSC to the Operating Utilities. Because of the integrated nature of the system used by UI, it would be extremely difficult and expensive to track such "deemed" loans and otherwise comply with the Proposed Rule as currently drafted.

UI has sound credit but does not maintain public securities ratings from any of the three nationally recognized rating agencies. UI accesses the long-term debt markets through private placements to insurance companies and other institutional lenders.

All of UI's common stock is owned by Nuon NV, a public company located in the Netherlands. Nuon has a unsecured long-term debt rating of Aa3 (on watch for possible downgrade) and a P-1 short-term rating from Moody's. Nuon does not have ratings from any other nationally recognized rating agency.

Nuon may be willing to provide an unconditional guaranty of WSC's obligations to the Operating Companies. However, as noted, Nuon only has a single rating which would not qualify it as a guarantor under the Proposed Rule. Furthermore, UI would need relief from the other requirements of the Proposed Rule. We would like to discuss with Staff possible alternative means of insuring the safety of the Illinois Operating Companies' funds.

#### UI's Suggested Changes to the Proposed Rule

In particular, UI suggests the following changes to the Proposed Rule:

1. Amend definition of "Service Company" in Section 340.20 as follows:

"Service Company" means a mutual or subsidiary service company approved by the Securities and Exchange Commission pursuant to 17 CFR 250.88 or a service company providing services to utilities pursuant to a service agreement that has been approved by the Commission under Section 7-101 and/or 7-102 [220 ILCS 5/7-101 and/or 5/7-102] of the Act.

2. Add to Section 340.20 a new definition, as follows:

"Water Utility" means any person that is a public utility solely by reason of owning facilities for the production, storage, transmission, sale, delivery or furnishing of water and/or the disposal of sewerage within the meaning of Section 3-105 [220 ILCS 5/3-105] of the Act.

3. Add to Section 340.10 (b) a new sub-item [5]<sup>1</sup>:

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<sup>1</sup> There is a proposal that utilities that do not issue long term debt to any unaffiliated party not be subject to Section 340.30 or 40. If adopted this would excuse UI's utilities from complying with the rules, including the reporting requirements. If that proposal is not adopted, UI would need the suggested language.

5) A Water Utility that is an Affiliate of three or more other Water Utilities in the State and that uses a Service Company for purposes of aggregating customer receipts and paying all such Water Utility's vendors and other operating requirements is not subject to the requirements of Sections 340.30 and 340.40; provided that, to be eligible for this subsection (5), such Water Utility (i) may not issue indebtedness to any unaffiliated third party, (ii) must use the Service Company to conduct all of its cash flow operations [(iii) must be the beneficiary of a guaranty provided by a [High-grade credit issuer]<sup>2</sup> of its Service Company's obligations to such Water Utility or such Service Company must have a [High-grade committed credit facility]<sup>3</sup> that satisfies Section 340.40(b)(2)] and (iv) must have demonstrated to the satisfaction of the Commission (in a proceeding approving such affiliated interest transactions under Sections 7-101 or 7-102 [220 ILCS 5/7-101 and/or 5/7-102] of the Act or otherwise) that in lieu of interest payments or credits from the Service Company to the Water Utility for funds used or charges by the Service Company to the Water Utility for funds advanced, the overall cost of providing services to such Water Utility by the Service Company appropriately allocates to such Water Utility the costs, savings and efficiencies of such cash flow system.

4. Add to Section 340.60 a new sub-item (f):<sup>4</sup>

(f) A Water Utility that satisfies the requirements of Section 340.10 (b)([5]) and that is not subject to Section 340.60(b) shall provide, at the times reports would otherwise be required under Section 340.60(b), aggregate information for all such affiliated Illinois Water Utilities describing the net amount deemed to be owed by or owed to such Water Utilities from their affiliated Service Company at the end of each quarter taking into account all payments made or accrued by such Service Company on behalf of such Water Utilities.

UI has reviewed the background of the Proposed Rule and understands that the Staff has been flexible in addressing particular problems of certain Illinois utilities and note that the text of the Proposed Rule has been modified, consistent with the Commission's overall goal of ensuring the safety of utilities' money, to accommodate the different practices of Illinois utilities. UI understands that it is bringing up concerns late in the process, but believe it has very legitimate issues. To fully comply with the Proposed Rule as currently drafted would likely require the addition of several new staff members, the cost of which would have to be borne by the customers of the Illinois Operating Companies. Further, depending on how the Proposed

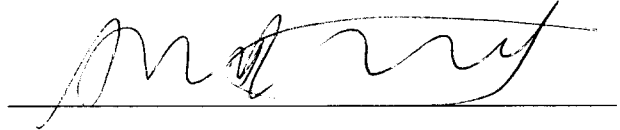
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<sup>2</sup> There is a proposal to change the defined term "High-grade credit issuer" to "Investment-grade credit issuer." UI supports this proposed change.

<sup>3</sup> There is a proposal to modify this requirement. UI supports that proposal.

Rule is interpreted in light of UI's operations, it could be possible that UI would have to significantly modify its operating procedures that have been in place for many years, have been subject to numerous reviews by the Commission and have not led to any of the problems the Commission is seeking to address in the Proposed Rule.

Respectfully submitted,  
Utilities, Inc.

A handwritten signature in dark ink, appearing to read 'WJ Harmon', is written over a horizontal line.

By Its Attorneys:

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March 5, 2003

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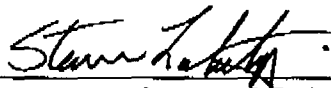
<sup>4</sup> If the proposal referred to in note 1 is adopted this provision would also not be necessary as the reporting requirements of 340.60(b) only apply to companies subject to that section. If that proposal is not adopted, UI would need the suggested language.

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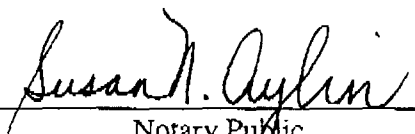
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On Its Own Motion	:	02-0581
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Rulemaking concerning the establishment of mandatory	:	
provisions for money pool agreements involving public	:	
utilities and incumbent local exchange carriers.	:	

**VERIFICATION**

I, Steven M. Lubertozi, certify that: (i) I am Director, Regulatory Accounting, Utilities, Inc., 2335 Sanders Road, Northbrook, Illinois 60062; (ii) I have read the attached "Comments of Utilities, Inc"; (iii) I am familiar with the facts stated therein; and (iv) the facts are true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Steven M. Lubertozi

SUBSCRIBED and SWORN to before me  
this 5th day of March, 2003.

  
\_\_\_\_\_  
Notary Public

